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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,183	03/11/2004	Taiji Ema	960045D	4954
38834	7590	04/21/2005	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			NGUYEN, CUONG QUANG	
			ART UNIT	PAPER NUMBER
			2811	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,183

Applicant(s)

EMA ET AL.

Examiner

Cuong Q. Nguyen

Art Unit

2811

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support for limitation " the opening is not filled with the capacitor storage electrode" in the original specification of in the figures. It is noted that, in Fig.34, the capacitor storage electrode is filled partially the opening.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation " the opening is not filled with the capacitor storage electrode" in claim 4 is contradict to the limitation "capacitor storage electrode formed on an inside wall.....of the opening" which means the capacitor storage electrode has to be filled the opening.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miki et al. (US 5,499,207) in view of Miyake (US 5,403,766).

Regarding claims 1, 3 and 6, Miki et al. discloses a semiconductor storage device comprising: a memory cell transistor (a MOS transistor) inherently having a first diffused layer (a first source/drain layer of the MOS transistor) and a second diffused layer (a second source/drain layer of MOS transistor) formed in a semiconductor substrate, and a gate electrode formed over the semiconductor substrate between the first diffused layer and the second diffused layer with a gate insulation film interposed therebetween (col.4 lines 55-67); an insulation film including a layer (102) of phosphorous glass layer (col.5 lines 5-10) and a layer (603) having different etching characteristic from the layer (102) over the (102) layer covering a top of the memory cell transistor and having a through-hole opened in the layer (102) on the first diffused layer and an opening in the layer (603) surrounding the through-hole, the opening having a larger diameter than the

through-hole and not reaching the semiconductor substrate; a capacitor storage electrode (104) formed on and along an inside wall and a bottom of the opening and electrically connected to the substrate; a capacitor dielectric film (601) formed covering the capacitor storage electrode; and a capacitor opposed electrode (602) formed covering the capacitor dielectric film. See Miki et al.'s Fig.6.

Miki et al.'s Fig.6 does not explicitly show that the capacitor storage electrode electrically connected to the first diffused layer.

It is conventional and also taught by Miyake's Fig.1C that the capacitor storage electrode commonly formed to electrically connect to the first diffused layer of MOS transistor (memory transistor) in order to store the information from the second diffused layer (the bit line of memory).

It would have been obvious to one of ordinary skill in the art to form Miki et al.'s memory device such as the capacitor storage electrode electrically connecting to the first diffused layer of the memory MOS transistor as taught by Miyake in order to store the information in the capacitor storage electrode when the memory transistor is on state.

Regarding claim 2, as shown in Miki et al.'s Fig.6, the capacitor storage electrode includes a columnar conductor (105) buried in the through-hole and projected in the opening (above the bottom surface of the opening which is an upper surface of layer 102).

Allowable Subject Matter

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is an examiner's statement of reasons for allowance: above combination appears to be the closest prior art reference. However, this combination fails to teach that a thickness of the capacitor storage electrode is thinner than a depth of the opening. Prior art of record fails to teach or suggest to incorporate these limitations above references to arrive at the claimed device.

Response to Arguments

6. Applicant's arguments filed on 02-01-05 have been fully considered but they are not persuasive. Applicants argue that Miki et al. does not teach the bottom electrode is formed on and in contact with the bottom of the opening. It is noted that the features upon which applicant relies (i.e., the bottom electrode is in contact with the bottom of the opening) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It is noted that "on" does not mean "in contact".

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 872-9306. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

9. Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to CUONG Q NGUYEN whose telephone number is (571) 272-1661. The Examiner is in the Office generally between the hours of 6:30 AM to 5:00 PM (Eastern Standard Time) Monday through Thursday.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Eddie Lee who can be reached on (571) 272-1732.

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11. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center Receptionists whose telephone number is 308-0956.

A handwritten signature in black ink, appearing to read 'Cuong Nguyen', written over the printed name.

Cuong Nguyen

Primary examiner

4/13/05